

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

BRUCE INGRAHAM; HOLLY INGRAHAM,

Plaintiffs,

v.

1:20-CV-0147

ANDREW CUMO, JR.,¹ et al.,

Defendants.

**THOMAS J. McAVOY,
Senior United States District Judge**

DECISION and ORDER

I. INTRODUCTION

This *pro se* action was referred to the Hon. Christian F. Hummel, United States Magistrate Judge, to review Plaintiffs' *in forma pauperis* applications and for an initial review of their complaint pursuant to 28 U.S.C. § 1915(e). Magistrate Judge Hummel recommends that because "Plaintiffs' complaint completely fails to meet the pleading guidelines of Federal Rules of Civil Procedure 8 and 10," and because the factual allegations in the complaint fail to provide the Court with any "means by which to assess whether this Court's jurisdiction or venue is proper," Rep.-Rec. & Ord., Dkt. No. 6 at 5, the complaint be dismissed without prejudice to amendment. *Id.* at 6. Plaintiffs failed to file

¹Plaintiffs identify the first defendant as "Andrew Cumo Jr" who holds the official position of "Govener" [sic] in Albany, NY, Dkt. No. 1 at ¶ 3, which is apparently a misspelling of New York State Governor Andrew Cuomo's name. Because the complaint is dismissed without prejudice to amendment, there is no need to correct the docket at this time.

timely objections but filed an untimely letter that, liberally construed, appears to indicate an intent to file an amended complaint but requests additional time to do so because of circumstances in Plaintiffs' personal lives. See Dkt. No. 7.

II. DISCUSSION

After examining the record, this Court has determined that the recommendation in the Report-Recommendation and Order to dismiss the complaint without prejudice to amendment is not subject to attack for plain error or manifest injustice. Further, even if the Plaintiffs' letter is treated as an objection, the Court has completed a *de novo* review and has determined to adopt Magistrate Judge Hummel's recommendation for the reasons stated in his report. The Court will add additional time for Plaintiffs to file an amended complaint.

III. CONCLUSION

Accordingly, the Court **ACCEPTS AND ADOPTS** Magistrate Judge Hummel's recommendation in the February 27, 2020 Report-Recommendation and Order (Dkt. No. 6) to dismiss the complaint without prejudice to amendment. It is hereby

ORDERED that Plaintiffs' complaint (Dkt. No. 1) is **DISMISSED without prejudice to amendment**; and it is further

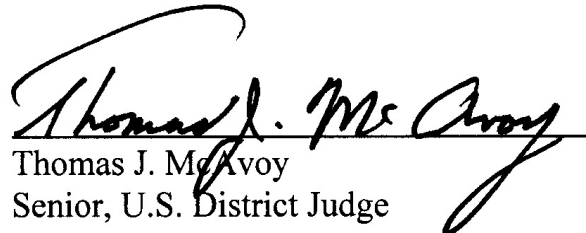
ORDERED that Plaintiffs are provided sixty (60) days from the date of this Decision and Order to file an amended complaint. Plaintiffs are advised that an amended complaint supersedes in all respects the prior pleading. Any amended complaint must be a complete pleading and include all facts and claims that Plaintiffs proceed on, and must attempt to cure the deficiencies in the complaint identified by Magistrate Judge Hummel in

his Report-Recommendation and Order. Therefore, if Plaintiffs file an amended complaint, they must properly allege in the amended complaint all factual bases for all claims asserted therein, must identify the dates and locations of the underlying acts that they contend provide the bases of their claims, identify a basis for federal jurisdiction (see 28 U.S.C. §§ 1330 -1369), and the amended complaint must be in compliance with Rules 8 and 10 of the Federal Rules of Civil Procedure. If Plaintiffs file an amended complaint within the time frame set forth herein, the Clerk of the Court is to return the case to Magistrate Judge Hummel for review of the amended complaint; and it is further

ORDERED that should Plaintiffs decline to file an amended complaint within the time frame set forth herein, the Clerk of the Court may close this action without further order from the Court.

IT IS SO ORDERED.

Dated: April 20, 2020


Thomas J. McAvoy
Senior, U.S. District Judge